

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

DATE OF DECISION: March 17, 2011.

Parties Name

Lekh Ram (now dead) represented by Smt. Barfi and others

...PETITIONER

VERSUS

State of Haryana and others

...RESPONDENTS

CORAM: Hon'ble Mr. Justice Jasbir Singh
Hon'ble Mr. Justice Rakesh Kumar Garg

PRESENT: Mr. Amit Jain,
Advocate, for the petitioner

Mr. Kamal Sehgal, Addl. A.G., Haryana,

Jasbir Singh, J. (oral)

JUDGMENT

This writ petition has been filed with a prayer to quash notification dated January 30, 1989, issued under Section 4 of the Land Acquisition Act, 1894 (in short the Act) to acquire a vast track of land including land owned by the petitioner falling in Khasras No. 5/23 and 14/3. Further challenge has been laid to a notification issued on January 25, 1990, under Section 6 of the Act. As per facts on record, land was acquired for a public purpose, namely, for the development and utilisation of land as residential and commercial area for Sector 30 at Gurgaon.

Heard counsel for the parties.

In this writ petition, it is specific case of the petitioners that in the land under their ownership, they have constructed the residential houses. It is contended by counsel for the petitioner that discrimination has been done to the petitioner by not releasing their land, whereas a vast track of land was released in favour of a Company known as M/S Unitech Ltd. To show that the construction was in existence, when notification under Section 4 of the Act was issued, reference was made to an averment made in para No. 4 of the writ petition, wherein it is only stated that the petitioner's residential house is in existence in the land in dispute. To the contrary, in paragraph No. 2 of the writ petition, it is stated that the nature of the land owned by the petitioner was agricultural. Detail of the construction is not given. It has also come on record that when opportunity given, petitioner failed to file any objection under Section 5-A of the Act.

In the reply filed, it has been stated as under:

“1. That the petitioner has not come to the court with clean hands at all. The petitioner had alleged in para No. 4 of the Civil Writ Petition that he has constructed a house on the land in dispute. In fact, the land in dispute was completely vacant at the time of the issuance of the³ notification u/s 4 of the Land Acquisition Act. A survey was conducted fully in accordance with law and the land in dispute was completely vacant at the relevant time. Thus, the allegations regarding construction are totally false and concocted. The petitioner has made false

allegations with malafide intentions. The Civil Writ Petition merits dismissal on this ground alone.

2. That the petitioner has not filed any objections u/s 5-A of the Land Acquisition Act at all. The petitioner has got no right to challenge the acquisition proceedings at this stage. The Civil Writ Petition filed by the petitioner merits dismissal on this sole ground”

The respondents have taken a specific stand in the reply that when land was ordered to be acquired, it was lying vacant and further that petitioner has not raised any objection to the proposed acquisition. To the written-statement, replication was not filed to show that the construction was in existence. Even photographs of the alleged construction were not put on record. So far as ground of discrimination is concerned, the same is also not available to the petitioner. In the reply filed, it is stated that the land was released in favour of M/S Unitech Pvt. Ltd. Because a licence to develop that land, as a colony, has already been sanctioned in favour of the said company. As the petitioners have failed to file objections under Section 5-A of the Act, in view of ratio of judgment of the Hon'ble Supreme Court in Delhi Administration v. Gurdip Singh Uban and others , AIR 1999 Supreme Court 3822, this writ petition is not maintainable.

In view of facts, mentioned above, no case is made out for interference. Dismissed.

(Jasbir Singh)
Judge

(Rakesh Kumar Garg)
Judge

March 17 , 2011.
DKC